

REMARKS

The indication that claims 5 - 8, 16 and 20 are objected to and that such claims would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, is acknowledged. By the present amendment, the features of claim 16 have been incorporated into parent claim 13 such that claim 13, as amended, represents claim 16 written in independent form, and applicants submit that this claim should now be in condition for allowance. As to objected to claims 5 - 8 and 12, such claims have been retained in dependent form since the parent claims have been amended, and should be considered allowable over the cited art, as will be discussed below. Furthermore, by the present amendment, claims 14 - 20 have been canceled without prejudice or disclaimer of the subject matter thereof.

Turning to the amendments of claims 1 and 9, such claims have been amended clarifying the feature of the signal which is added to the blue image signal in that during red image displaying, an image display element corresponding to red color is modulated by a red image signal while adding to a blue image signal "a signal having an amplitude which is no greater than 3% of said red image signal" (emphasis added) to thereby modulate by the added signal an image display element corresponding to blue color. Such feature is described at page 22, lines 9 - 15 of the specification of this application which describes the mixture ratio of the red signal to the blue signal being set to less than or equal to 3%, preferably, 2% or less, to obtain the preferred chromaticity (deep red). Furthermore, the present invention is directed to solve the problem caused by using a lamp with less red light component in that the red light is less than 1/3 of the green light or the blue light among the average energy intensities of the three primary light fluxes of red, green and blue

separated by a light flux separator. Applicants submit that independent claims 1 and 9 have been amended to recite the feature of adding a signal having an amplitude which is no greater than 3% of the red image signal to the blue image signal during red image displaying and applicants submit that such recited feature is not disclosed or taught in the cited art, as will become clear from the following discussion.

The rejection of claims 1 and 13 under 35 USC 102(b) as being clearly anticipated by JP 2001-186539; the rejection of claims 2 - 4, 14 - 15 under 35 USC 103(a) as being unpatentable over JP 2001-186539 in view of Mukawa et al; and the rejection of claims 9 - 11 and 17 - 19 under 35 USC 103(a) as being unpatentable over JP 2001-186539 in view of Gale et al and Mukawa et al; such rejections are traversed insofar as they are applicable to the present claims and reconsideration and withdrawal of the rejections are respectfully requested.

As to the requirements to support a rejection under 35 USC 102, reference is made to the decision of In re Robertson, 49 USPQ 2d 1949 (Fed. Cir. 1999), wherein the court pointed out that anticipation under 35 U.S.C. §102 requires that each and every element as set forth in the claim is found, either expressly or inherently described in a single prior art reference. As noted by the court, if the prior art reference does not expressly set forth a particular element of the claim, that reference still may anticipate if the element is "inherent" in its disclosure. To establish inherency, the extrinsic evidence "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be so recognized by persons of ordinary skill." Moreover, the court pointed out that inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.

With regard to the requirements to support a rejection under 35 USC 103, reference is made to the decision of In re Fine, 5 USPQ 2d 1596 (Fed. Cir. 1988), wherein the court pointed out that the PTO has the burden under '103 to establish a prima facie case of obviousness and can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references. As noted by the court, whether a particular combination might be "obvious to try" is not a legitimate test of patentability and obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. As further noted by the court, one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.

Furthermore, such requirements have been clarified in the recent decision of In re Lee, 61 USPQ 2d 1430 (Fed. Cir. 2002) wherein the court in reversing an obviousness rejection indicated that deficiencies of the cited references cannot be remedied with conclusions about what is "basic knowledge" or "common knowledge".

The court pointed out:

The Examiner's conclusory statements that "the demonstration mode is just a programmable feature which can be used in many different device[s] for providing automatic introduction by adding the proper programming software" and that "another motivation would be that the automatic demonstration mode is user friendly and it functions as a tutorial" do not adequately address the issue of motivation to combine. This factual question of motivation is immaterial to patentability, and could not be resolved on subjected belief and unknown authority. It is improper, in determining whether a person of ordinary skill would have been led to this combination of references, simply to "[use] that which the inventor taught against its teacher."... Thus, the Board must not

only assure that the requisite findings are made, based on evidence of record, but must also explain the reasoning by which the findings are deemed to support the agency's conclusion. (emphasis added)

In setting forth the rejection based upon JP 2001-186539, the Examiner contends that this reference discloses a color control circuit for use in a full color projection device having three LCD modulators wherein "a portion of a red image signal of amplitude 1/N is added to the signal controlling the blue element" (emphasis added) with the Examiner referring to Figures 1 and 16 of such reference. Applicants note that as described in Fig. 1 and paragraphs [0025] and [0026] of JP 2001-186539, when the light with the wavelength of 570 - 600 nm between red and green is fetched into the red image signal to effect display in priority for brightness, the switch 2 is closed to connect the red image signal with an attenuator 3. The attenuator 3 attenuates the red image signal by a predetermined ratio (1/n times) and the attenuated red image signal is added to the blue image signal by the adder 4 to become a blue image signal of a later stage. In accordance with this description, by adding the blue image signal with the intensity corresponding to the intensity of the red image signal, a projection type display device for correcting the color reproducing region in the priority of brightness by superposing the blue image signal on the red image signal is realized. However, Fig. 17 and paragraph [0030] of JP 2001-186539 disclose an embodiment wherein when the light of the wavelength 570-600 nm is fetched into the green light, the green image signal is added to the blue image signal such that applicants submit that JP 2001-186539 is directed to suppression of degradation of color reproducing characteristics when light of the wavelength 570-600 nm, which is not utilized in the prior art, is utilized for improving the brightness. Furthermore, irrespective of the disclosure of JP 2001-186539, applicants submit that this document does not disclose in the sense of 35 USC 102

or teach in the sense of 35 USC 103, the recited features of independent claims 1 and 9 of this application, as amended, that during red image displaying, when an image display element corresponding to red color is modulated by a red image signal, a signal having an amplitude which is no greater than 3% of the red image signal is added to the blue image signal to thereby modulate by the added signal an image display element corresponding to blue color. Thus, applicants submit that claims 1 and 9, as amended, patentably distinguish over JP 2001-186539 in the sense of 35 USC 102 and 35 USC 103 such that these independent claims and the dependent claims thereof should be considered allowable thereover.

With respect to the combination of JP 2001-186539, with Mukawa et al and/or Gale et al, applicants submit that these additional references fail to disclose the aforementioned claimed features of independent claims 1 and 9 and therewith the dependent claims such that the combination fails to provide the claimed features of the independent and dependent claims in the sense of 35 USC 103 and all claims should be considered allowable thereover.

In view of the above amendments and remarks, applicants submit that in addition to claim 13 which should be in condition for allowance since such claim represents objected to claim 16 written in independent form, independent claims 1 and 9 and the dependent claims thereof, the only claims remaining in this application, patentably distinguish over the cited art and should now be in condition for allowance. Accordingly, issuance of an action of favorable nature is courteously solicited.

To the extent necessary, applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli,

Terry, Stout & Kraus, LLP, Deposit Account No. 01-2135 (Case: 500.43698X00),
and please credit any excess fees to such deposit account.

Respectfully submitted,

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